

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

PRINCETON BROWN,

Defendant.

Case No. CR19-106RSL

ORDER DENYING MOTION
TO AMEND PRESENTENCE
INVESTIGATION REPORT

This matter comes before the Court on defendant's "Motion to Amend PSI of 4-12-2022" (Dkt. # 243). Having considered the motion and the record contained herein, the Court finds as follows:

I. Motion to Seal

As an initial matter, the Court finds compelling reasons justify sealing defendant's records containing sensitive information (Dkt. # 245). Defendant's motion to seal (Dkt. # 244) is accordingly GRANTED.

II. Background

Defendant is a 44-year-old inmate currently incarcerated at Terminal Island Federal Correctional Institution. *See Find an Inmate*, Fed. Bureau of Prisons, <https://www.bop.gov/inmateloc/> (last visited May 22, 2023). On February 3, 2020, defendant pleaded guilty to attempted possession of cocaine with intent to distribute in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C), as well as possession of a firearm in furtherance of drug trafficking in violation of 21 U.S.C. § 924(c)(1)(A). Dkt. # 81. On April 15, 2022, this Court sentenced defendant to a term of 60 months and 1 day of imprisonment and a three-year term of

1 supervised release. Dkt. # 178 at 2-3. Defendant is currently scheduled for release from the
 2 custody of the Federal Bureau of Prisons (“BOP”) on October 22, 2025. *See Find an Inmate*,
 3 Fed. Bureau of Prisons, <https://www.bop.gov/inmateloc/> (last visited May 22, 2023).

4 Defendant filed the instant motion asking the Court to amend the Presentence
 5 Investigation Report (“PSR”) prepared in this case. Dkt. # 243 at 2. Specifically, defendant asks
 6 that the narrative portion of a fourth-degree assault included in the “Juvenile Adjudication”
 7 portion of defendant’s “Criminal History” be stricken, and that the amended PSR be sent to the
 8 BOP. *Id.* at 2-3. Defendant asserts that BOP has characterized the offense as a sex offense,
 9 relying on the narrative description of the crime included in the PSR. *Id.* at 2. Defendant further
 10 alleges that as a result of this characterization, he has been denied a transfer to “camp,” for
 11 which he is otherwise eligible, and has been or will be denied other benefits “such as application
 12 of the CARES Act, and probably work release.” *Id.*

13 Defense counsel apparently sent a letter to the probation officer preparing the PSR,
 14 objecting to the inclusion of this offense. *See* Dkt. # 245 at 3 (letter stating “[t]his case was
 15 dismissed and so the entire story should be stricken. As well, the alleged victim’s story was
 16 totally fabricated.”). However, the objected-to paragraph was included in the final PSR with no
 17 objections noted, *see* Dkt. # 176 at 6, 17-18, and no objections to this portion of the PSR were
 18 raised at sentencing, Dkt. # 243 at 2.

19 **III. Discussion**

20 Defendant’s motion asks the Court to amend his PSR post-sentence. However, the Ninth
 21 Circuit has explained that “once the district court has imposed [a] sentence, the court lacks
 22 jurisdiction . . . to hear challenges to a presentence report.” *United States v. Catabran*, 884 F.2d
 23 1288, 1289 (9th Cir. 1989) (per curiam).

24 Rule 32 sets forth the procedure the district court must follow when a defendant alleges
 25 any factual inaccuracy in a presentence report.¹ *See* Fed. R. Crim. P. 32; *United States v.*

27 ¹ Prior to the imposition of sentence, Federal Rule of Criminal Procedure 32(c) requires a
 28 probation officer conduct a presentence investigation and issue a report—the PSR—which the district
 court must consider in sentencing. *See* Fed. R. Crim. P. 32(c). At least 35 days prior to sentencing, the
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1 *Stewart*, 799 F.2d 580, 581 (9th Cir. 1986). However, Rule 32 “allows the defendant to
 2 challenge factual inaccuracies during imposition of the sentence, not later.” *Catabran*, 884 F.2d
 3 at 1289 (quoting *United States v. Freeny*, 841 F.2d 1000, 1002 (9th Cir. 1988) (per curiam)).

4 No other rule in the Federal Rules of Criminal Procedure offers a means to make a
 5 substantive post-sentence correction or amendment to a Presentence Investigation Report.
 6 Compare Fed. R. Crim. P. 35(e) (district court may correct a sentence that resulted from
 7 “arithmetical, technical, or other clear error” within 14 days after imposition of sentence) with
 8 Fed. R. Crim. P. 36 (district court may correct a “clerical error” in a judgment at any time).
 9 “Therefore, for anything other than a ‘clerical error,’ challenges to or requests to amend a PSR
 10 submitted more than fourteen days after imposition of the sentence must be based on statutes or
 11 rules giving the district court jurisdiction to consider the challenge, such as a motion to vacate,
 12 set aside, or correct a sentence brought pursuant to 28 U.S.C. § 2255.” *United States v. Cripps*,
 13 No. CR10-461LJO, 2017 WL 1115972, at *1 (E.D. Cal. Mar. 27, 2017).

14 Accordingly, the Court lacks jurisdiction to now alter the PSR as defendant requests. *See*
 15 *id.*; *United States v. Lemusu*, No. CR02-130HG, 2019 WL 4197205 (D. Haw. Sept. 4, 2019);
 16 *United States v. Cross*, No. CR18-65HG, 2019 WL 6357964 (D. Haw. Nov. 27, 2019).

17 **IV. Conclusion**

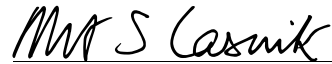
18 For all the foregoing reasons, defendant’s “Motion to Amend PSI of 4-12-2022” (Dkt.
 19 # 243) is DENIED. Defendant’s motion to seal (Dkt. # 244) is GRANTED.

20 IT IS SO ORDERED.

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 23 PSR must be disclosed to the defendant and his attorney, *see* Fed. R. Crim. P. 32(e), and the district
 24 court must determine at sentencing whether defendant and his attorney have had the opportunity to read
 25 and discuss the report, Fed. R. Crim. P. 32(i)(1)(A). Rule 32(f) provides that within 14 days after
 26 receiving the PSR, a defendant may make objections to “material information, sentencing guideline
 27 ranges, and any policy statements contained in or omitted from the report.” Fed. R. Crim. P. 32(f)(1).
 28 “[F]or any disputed portion of the presentence report or other controverted matter[,] [the court must] rule
 on the dispute or determine that a ruling is unnecessary either because the matter will not affect
 sentencing, or because the court will not consider the matter in sentencing.” Fed. R. Crim. P.
 32(i)(3)(B); *see also Cripps*, 2017 WL 1115972, at *1.

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2 DATED this 24th day of May, 2023.
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5 Robert S. Lasnik
6 United States District Judge
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